

House File 2213 - Introduced

HOUSE FILE 2213

BY PETTENGILL, BALTIMORE, and
R. OLSON

A BILL FOR

1 An Act concerning the administrative rules review committee and
2 the rulemaking process.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 17A.4, subsection 3, Code 2011, is
2 amended to read as follows:

3 3. a. When an agency for good cause finds that notice and
4 public participation would be unnecessary, impracticable, or
5 contrary to the public interest, the provisions of subsection 1
6 shall be inapplicable. The agency shall incorporate in each
7 rule issued in reliance upon this provision either the finding
8 and a brief statement of the reasons for the finding, or a
9 statement that the rule is within a very narrowly tailored
10 category of rules whose issuance has previously been exempted
11 from subsection 1 by a special rule relying on this provision
12 and including such a finding and statement of reasons for the
13 entire category.

14 b. (1) If the administrative rules review committee by
15 a two-thirds vote, the governor, or the attorney general
16 files with the administrative code editor an objection to the
17 adoption of any a rule or portion of a rule pursuant to this
18 subsection, ~~that~~ the rule or portion of the rule shall cease
19 to be effective one hundred eighty days after the date the
20 objection was filed. A

21 (2) If the administrative rules review committee files with
22 the administrative code editor an objection to the adoption of
23 a rule or portion of a rule pursuant to this subsection, the
24 administrative rules review committee, by a separate two-thirds
25 vote, may suspend the applicability of the rule or portion
26 of the rule until the rule ceases to be effective under this
27 paragraph "b". The determination to suspend the applicability
28 of the rule or portion of the rule shall be included in the copy
29 of the objection to be forwarded to the agency.

30 c. If an objection to a rule is filed under this subsection,
31 a copy of the objection, properly dated, shall be forwarded to
32 the agency at the time of filing the objection. In any action
33 contesting a rule or portion of a rule adopted pursuant to
34 this subsection, the burden of proof shall be on the agency to
35 show that the procedures of subsection 1 were impracticable,

1 unnecessary, or contrary to the public interest and that, if a
2 category of rules was involved, the category was very narrowly
3 tailored.

4 Sec. 2. Section 17A.4, subsection 7, Code 2011, is amended
5 to read as follows:

6 7. a. Upon the vote of two-thirds of its members the
7 administrative rules review committee may delay the effective
8 date of a rule or portion of a rule seventy days beyond that
9 permitted in section 17A.5, unless the rule was promulgated
10 under section 17A.5, subsection 2, paragraph "b". ~~This~~
11 ~~provision shall be utilized by the committee only if further~~
12 ~~time is necessary to study and examine the rule. If the~~
13 rule was promulgated under section 17A.5, subsection 2,
14 paragraph "b", the administrative rules review committee,
15 within thirty-five days of the effective date of the rule and
16 upon the vote of two-thirds of its members, may suspend the
17 applicability of the rule or portion of the rule for seventy
18 days.

19 b. Notice of an effective date that was delayed under this
20 provision shall be published in the Iowa administrative code
21 and bulletin.

22 Sec. 3. Section 17A.4, Code 2011, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 9. Upon the vote of two-thirds of its
25 members, the administrative rules review committee, following
26 notice of intended action as provided in subsection 1 and prior
27 to adoption of a rule pursuant to that notice, may suspend
28 further action relating to that notice for seventy days.
29 Notice of a notice of intended action that was suspended under
30 this provision shall be published in the Iowa administrative
31 code and bulletin.

32 Sec. 4. Section 17A.8, subsection 4, Code 2011, is amended
33 to read as follows:

34 4. a. The committee shall ~~choose a chairperson from its~~
35 ~~membership and~~ prescribe its rules of procedure. The committee

1 may employ a secretary or may appoint the administrative code
2 editor or a designee to act as secretary.

3 b. The chairperson of the committee shall be chosen as
4 provided in this paragraph. For the term commencing with the
5 convening of the first regular session of each general assembly
6 and ending upon the convening of the second regular session
7 of that general assembly, the chairperson shall be chosen by
8 the committee from its members who are members of the house of
9 representatives. For the term commencing with the convening
10 of the second regular session of each general assembly and
11 ending upon the convening of the first regular session of the
12 next general assembly, the chairperson shall be chosen by the
13 committee from its members who are members of the senate. A
14 vacancy shall be filled in the same manner as the original
15 appointment and shall be for the remainder of the unexpired
16 term of the vacancy.

17 Sec. 5. Section 17A.8, subsection 9, Code 2011, is amended
18 to read as follows:

19 9. a. Upon a vote of two-thirds of its members, the
20 administrative rules review committee may delay the effective
21 date of a rule or portion of a rule until the adjournment
22 of the next regular session of the general assembly, unless
23 the rule was promulgated under section 17A.5, subsection 2,
24 paragraph "b". If the rule was promulgated under section
25 17A.5, subsection 2, paragraph "b", the administrative rules
26 review committee, within thirty-five days of the effective date
27 of the rule and upon the vote of two-thirds of its members,
28 may suspend the applicability of the rule or portion of the
29 rule until the adjournment of the next regular session of the
30 general assembly.

31 b. The committee shall refer a rule or portion of a rule
32 whose effective date has been delayed or applicability has
33 been suspended to the speaker of the house of representatives
34 and the president of the senate who shall refer the delayed
35 or suspended rule or portion of the rule to the appropriate

1 standing committees of the general assembly. A standing
 2 committee shall review a the rule within twenty-one days
 3 after the rule is referred to the committee by the speaker
 4 of the house of representatives or the president of the
 5 senate and shall take formal committee action by sponsoring
 6 a joint resolution to disapprove the rule, by proposing
 7 legislation relating to the rule, or by refusing to propose
 8 a joint resolution or legislation concerning the rule. The
 9 standing committee shall inform the administrative rules review
 10 committee of the committee action taken concerning the rule.
 11 If the general assembly has not disapproved of the rule by a
 12 joint resolution, the rule shall become effective. The speaker
 13 of the house of representatives and the president of the senate
 14 shall notify the administrative code editor of the final
 15 disposition of each rule or portion of a rule whose effective
 16 date has been delayed or whose applicability has been suspended
 17 pursuant to this subsection. If a the rule is disapproved, ~~it~~
 18 the rule shall not ~~become~~ be effective and the agency shall
 19 rescind the rule. ~~This section shall not apply to rules made~~
 20 ~~effective under section 17A.5, subsection 2, paragraph "b".~~

21

EXPLANATION

22 This bill concerns the administrative rules review committee
 23 (ARRC) relative to its powers concerning the rulemaking process
 24 and the process of selecting a chairperson of the committee.

25 Code section 17A.4(3), concerning the adoption of a rule
 26 without notice, is amended to provide that if the ARRC, upon
 27 a two-thirds vote, objects to a rule, the ARRC, by a separate
 28 two-thirds vote, may also suspend the applicability of the rule
 29 until the rule ceases to be effective. In addition, the bill
 30 provides that the ARRC may object to a portion of a rule. Under
 31 current law, the rule ceases to be effective 180 days after the
 32 date the objection is filed by the ARRC.

33 Code section 17A.4(7), concerning the 70-day delay
 34 authority of the ARRC, is amended to provide that the ARRC
 35 may, upon a two-thirds vote, suspend the applicability of a

1 rule promulgated under Code section 17A.5(2)(b), (so-called
2 emergency rulemaking) for 70 days. The bill provides that
3 action to suspend the applicability of a rule under this new
4 provision must be taken within 35 days of the effective date
5 of the rule. In addition, the bill provides that the ARRC may
6 utilize the 70-day delay authority regardless of the reason
7 for the delay and for a portion of a rule. Under current law,
8 rules promulgated under Code section 17A.5(2)(b) take effect
9 upon filing and are not subject to the 70-day delay authority
10 of the ARRC.

11 Code section 17A.4, new subsection 9, provides that the
12 ARRC, upon a two-thirds vote, may suspend for 70 days further
13 action relating to a notice of intended action filed by an
14 agency. Under current law, the ARRC has no authority relating
15 to a notice of intended action filed with the ARRC until the
16 adopted rule is filed with the ARRC following this notice.

17 Code section 17A.8(4), concerning the selection of the
18 chairperson of the ARRC, is amended. The bill provides that
19 the chairperson for the term commencing with the convening
20 of the first regular session of each general assembly and
21 ending upon the convening of the second regular session of that
22 general assembly shall be chosen by the committee from its
23 members who are members of the house of representatives. The
24 chairperson for the term commencing with the convening of the
25 second regular session of each general assembly and ending upon
26 the convening of the first regular session of the next general
27 assembly shall be chosen by the committee from its members
28 who are members of the senate. Current law provides that the
29 chairperson shall be selected by the ARRC from the membership
30 of the ARRC.

31 Code section 17A.8(9), concerning the session delay
32 authority of the ARRC, is amended to provide that the ARRC,
33 upon a two-thirds vote, may suspend the applicability of
34 a rule promulgated under Code section 17A.5(2)(b), until
35 the adjournment of the next regular session of the general

1 assembly. The bill also provides that action to suspend the
2 applicability of a rule under this new provision must be taken
3 within 35 days of the effective date of the rule. In addition,
4 the bill provides that the ARRC may utilize the session delay
5 authority for a portion of a rule. Under current law, rules
6 promulgated under Code section 17A.5(2)(b) take effect upon
7 filing and are not subject to the session delay authority of
8 the ARRC.